

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY MICHAEL GIOIOSA, SR.,
 Plaintiff(s),

v.

NEVADA DEPARTMENT OF BUSINESS
 BUREAU, et al.,
 Defendant(s).

Case No. 2:21-cv-00700-JAD-NJK

REPORT AND RECOMMENDATION

Plaintiff initiated this case without (1) filing a complaint or (2) either paying the required fee or filing an application to proceed *in forma pauperis*. See Docket No. 1. On April 29, 2021, the Court ordered Plaintiff to file a complaint and to either pay the filing fee or file an application to proceed *in forma pauperis*. Docket No. 3. The deadline to comply was set at June 1, 2021. See *id.* On June 9, 2021, the undersigned issued a report and recommendation that the case be dismissed given Plaintiff's failure to comply with that directive. Docket No. 6.

On June 10, 2021, Plaintiff filed an application to proceed *in forma pauperis*. Docket No. 7. In light of that untimely filing, on June 29, 2021, the undersigned withdrew the report and recommendation, denied without prejudice the application to proceed *in forma pauperis*, and ordered that an amended application to proceed *in forma pauperis* had to be filed by July 29, 2021. Docket No. 8. The Court warned that failure to comply would result in a recommendation to the District Judge that the case be dismissed. *Id.* at 2. The Court also warned that it expected strict compliance with all deadlines moving forward. *Id.* at 1 n.1. Despite those warnings, Plaintiff has not to date filed an amended application to proceed *in forma pauperis*.

This case cannot proceed without Plaintiff either paying the filing fee or filing a motion to proceed *in forma pauperis*. See 28 U.S.C. § 1914(a); see also 28 U.S.C. § 1915(a). Failure to

1 comply with these basic requirements subjects a case to dismissal. *E.g., Desai v. Biden*, 2021 WL
2 38169, at *1 (E.D. Cal. Jan. 5, 2021), *adopted*, 2021 WL 276236 (E.D. Cal. Jan. 27, 2021).

3 Moreover, Plaintiff's refusal to comply with the Court's order is an abusive litigation
4 practice that has interfered with the Court's ability to hear this case, delayed litigation, disrupted
5 the Court's timely management of its docket, wasted judicial resources, and threatened the
6 integrity of the Court's orders and the orderly administration of justice. Sanctions less drastic than
7 dismissal are unavailable because Plaintiff has refused to comply with the order of this Court
8 notwithstanding the warnings that case-dispositive sanctions may be imposed.

9 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
10 prejudice.

11 Dated: August 13, 2021

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14 Nancy J. Koppe
United States Magistrate Judge

15 **NOTICE**

16 This report and recommendation is submitted to the United States District Judge assigned
17 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and
18 recommendation must file a written objection supported by points and authorities within fourteen
19 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file
20 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951
21 F.2d 1153, 1157 (9th Cir. 1991).